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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,452	09/01/2004	Richard Boudinot	026032-4729	9989
26371	7590	08/29/2006	EXAMINER	
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			NELSON JR, MILTON	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/506,452

Applicant(s)

BOUDINOT, RICHARD

Examiner

Milton Nelson, Jr.

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-17, 19 22-26 is/are rejected.
- 7) ☒ Claim(s) 18,20 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The rejection of claims 13-25 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, has been overcome by Applicant's amendment.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13, 14, 15, 16, 17, 24, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by DE (19630189). Note the seat part (2), backrest (3), electric drive (5, 6, 7, 10), higher speed for the foldover function (note paragraph 4 in column 2), inclination-adjusting function characteristic (forward tilting), inclination-adjusting function characteristic (rearward tilting), stepwise adjustment (note multiple speed stages), electric motor (5) which is an electric stepping motor (note multiple speed stage capability), and integration into the backrest (note portion 10 of the electric drive is

located here). Additionally note the first backrest part (upper cushion portion), and the second, smaller backrest part (lower supporting member that engages the seat part).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE (19630189) in view of Mitchelen et al (6042145). The primary reference shows all claimed features of the instant invention with the exception of the seat part having at least one seat occupation sensor. Note the discussion of the primary reference, above. The secondary reference teaches providing a seat part (16) as having at least one seat occupation sensor (34 and associated sensing means). It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by adding the seat occupation sensor and associated sensing means to the seat part. This provides structure that can be combined with the adjusting means of the seat for enhancing automatic functioning of the vehicle seat.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE (19630189) in view of McClintock et al (6369529). The primary reference shows all

claimed features of the instant invention with the exception of one of the backrest and backrest parts capable of being folded over by wireless remote control. Note the discussion of the primary reference, above. The secondary reference teaches providing an adjustable vehicle seat assembly with parts capable of being folded over by wireless remote control. Note the discussion in the abstract of the disclosure. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the vehicle seat such that one of the adjustable parts (backrest or backrest parts) is capable of being folded over by wireless remote control. This eliminates the need for a wiring harness connecting the adjustment controller to the seat assembly for enhanced ease of use.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE (19630189) in view of Rion et al (4379539). The primary reference shows all claimed features of the instant invention with the exception of the electric drive combining a motor and transmission. Note the discussion of the primary reference, above. The secondary reference teaches providing an adjustable vehicle seat assembly with an electric drive combining a motor (23) and transmission (series of gears, as shown in Figure 1). It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the electric drive of the vehicle seat with the combination of a motor and transmission. This provides an conventional drive

assembly that is particularly suitable for use as a seat adjuster. Such provides an assembly that is simple in construction for reduced production costs

Allowable Subject Matter

Claims 18, 20 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment/Arguments

Applicant's responses have been fully considered. Remaining issues are described in the above sections. Applicant argues that the vehicle seat having a backrest that is moved relative to a seat part in one of a fold-over function and an inclination-adjusting function as required by independent claim 13, is not disclosed, taught, or suggested by DE (19630189). Figure 1 of DE (19630189) explicitly shows the backrest part being folded over the seat part. In paragraph 6 of column 1, DE (19630189) explicitly discloses inclination position adjustment of the backrest part.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. **The examiner can normally be reached on Monday-Wednesday, and alternate Fridays, 5:30-3:00 EST.**


The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Milton Nelson, Jr.
Primary Examiner
Art Unit 3636

mn

August 23, 2006